

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**MARTHA JULIA HIDALGO VILLAFANE, §
Individually, As Executor and as Personal §
Representative of the Estate of Martha Erika §
Alonso Hidalgo, *et al.*, §**

Plaintiffs,

v.

**AGUSTA WESTLAND PHILADELPHIA §
CORPORATION, *et al.*, §**

Defendants. §

Civil Action No. 2:20-cv-06393-RBS

**PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' REPLY OR IN THE
ALTERNATIVE FOR LEAVE TO FILE A SURREPLY**

Plaintiffs respectfully move this Court to strike Defendants' Reply in support of their Motion to Dismiss pursuant to *forum non conveniens* and Fed. R. Civ. P. 12(b)(7) filed on June 14, 2021, or in the alternative for leave to file the attached Surreply. This motion is made pursuant to Fed. R. Civ. P. 12(f) and Your Honor's Policies and Procedures concerning General Motion Practice, specifically point 2: Reply and Surreply Briefs.

Your Honor's Policies and Procedures state that "Reply and surreply briefs should be filed only when absolutely necessary and only in circumstances where the parties wish to draw Judge Surrick's attention to controlling authority not previously cited by the parties." Defendants' 22-page Reply, however, did not cite any new controlling authority and addressed matters that could have and should have been raised in their initial moving papers. For example:

1. Defendants engage in 8 more pages of "spin" concerning the Mexican AFAC Report; and
2. Defendants raise, for the first time, Georgia and North Carolina as alternative U.S. venues for this case.

As a result, Plaintiffs were deprived of any opportunity to address these issues or offer the proper context for these AFAC Report excerpts in their Opposition. Accordingly, Plaintiffs respectfully submit that the Reply is properly stricken pursuant to Rule 12(f) and/or disregarded in the Court's consideration of Defendants' Motion to Dismiss.

If the Court is inclined to nonetheless consider Defendants' June 14, 2021 Reply, then Plaintiffs respectfully move for leave to file the Surreply attached hereto as Exhibit A. Plaintiffs' Surreply addresses the new issues improperly raised by Defendants' Reply and new matters not previously before the Court, including:

1. Plaintiffs' settlement with Servicios Aéreos del Altiplano, S.A. de C.V. ("SAA") (one of the non-parties that Defendants' claim are necessary to be joined) and controlling authority from Pennsylvania law allowing consideration of SAA's liability without their joinder;
2. Plaintiffs' response to the new alternative U.S. forums raised by Defendants' Reply; and
3. Plaintiffs' response to the new AFAC Report excerpts and argument from the Reply.

Plaintiffs respectfully submit that their short 4-page Surreply is therefore warranted pursuant to Your Honor's procedures and request leave to file it.

Dated: June 25, 2021

Respectfully submitted,

KREINDLER & KREINDLER LLP

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CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing via the Court's CM/ECF system on June 25, 2021, which automatically generates notification of the filing to all counsel of record.

/s/ Vincent C. Lesch

Vincent C. Lesch